

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JASON FREY, BRIANNA FREY,  
JACK CHENG, and WILLIAM SAPPE,

Case No. 21 Civ. 05334 (NSR)

Plaintiffs,

-against-

NEW YORK CITY, New York, STEVEN NIGRELLI,  
in his Official Capacity, KEECHANT SEWELL,  
in her Official Capacity,

**DECLARATION OF  
BRIANNA FREY**

Defendants.

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BRIANNA FREY, declares the following pursuant to 28 U.S.C. § 1746:

1. I am a plaintiff in the above-captioned matter. I make this Declaration in support of Plaintiffs' Third Motion for a Preliminary Injunction based on my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

2. I am a resident of Westchester County, New York. I am not prohibited by state or federal law from possessing, receiving, owning, or purchasing firearms.

3. I am a law-abiding person, wife, and mother. I hold a valid New York State pistol license issued by a Westchester County Court Judge and statutory pistol licensing officer, which I have held without incident since its issuance.

4. To be deemed eligible for the issuance of a handgun license, I underwent and passed a criminal history background check through the FBI and New York State Division of Criminal Justice Services, and a mental health prohibitor check through the New York State SAFE Act Office.

5. My handgun license authorizes me to (i) only possess the handguns registered thereon; (ii) purchase additional handguns to be registered thereon; and (iii) carry my registered handguns concealed (“CCW” or “concealed carry license”).

6. My CCW is restricted by the licensing officer to “sportsman”. Under the sportsman restricted license, I am restricted to carrying a handgun concealed in public to and from target shooting activities and while engaging in outdoor sporting activities such as camping, hiking, hunting, and the like.

7. In 2019, I applied to one of the licensing officers for Westchester County to have the restrictions of my CCW license lifted to allow for the unrestricted full carry (concealed) of my registered handguns. My application was denied on the sole basis that I had not established “proper cause” to carry a handgun concealed “without regard to employment or place or possession.”

8. Had New York State not continued to enforce an unconstitutional handgun licensing scheme requiring “proper cause”, I would have had a full carry concealed license at its initial issuance or, at the very least, my 2019 amendment to full carry concealed would have been approved.

9. By the issuance of a New York State handgun license, I was deemed eligible to carry a handgun concealed in public. I should not have to request more permission from the government to exercise that right.

10. I carry a handgun concealed for my protection and the protection of my husband, and my children. I have been carrying my handgun concealed and within the restrictions of my sportsman license only because I am afraid of being arrested, put in jail, having my pistol license suspended and/or revoked and other civil and criminal penalties for carrying outside of my license restriction.

11. However, I intend to carry my handgun outside of my restrictions because I do not want to be in a situation where either my life or the lives of my husband and children are at stake and I was unarmed and unable to protect myself or them.

12. I intend to carry a handgun while shopping at the Jefferson Valley Mall and Acme in Yorktown and the Shop Rite and Walmart in the Cortlandt Town Center, which I do on a regular basis.

13. I also intend to carry my handgun to restaurants that are subject to the alcohol beverage control laws. We go out to eat on a regular basis, whether to Primavera Restaurant in Croton Falls, BLT Steakhouse in White Plains, Antonella's on Route 9 in Fishkill, La Famiglia in Carmel and other restaurants.

14. My husband and I take our kids to the movies at the Regal Cinemas in the Cortlandt Town Center. The last time we went to the movies there was around May or June when we went to see Dr. Strange Multiverse of Madness and we are planning to see Halloween Ends within the next week or two. We also visit the Barnes and Noble bookstore in the same Cortlandt Town Center shopping plaza. I am going to carry my handgun at these locations as well, which is outside of my license restriction.

15. None of these locations have a "conspicuous sign" granting me permission to carry a firearm and I am not going to ask permission from the above locations, or from every property owner or lessee or refrain from going about in public to all of the places that members of the general public go – on public and private property, residential and commercial – just because there is no "conspicuous sign" granting me permission to exercise my right to be armed for self-defense. I have no obligation to follow a law that is a blatant violation of the Second Amendment.

16. The NYSP have a barracks behind the movie theater in the Cortlandt Town Center, NYSP Troop K Zone 3. It is very likely that a trooper could observe a bulge from my firearm while I am visiting any one of the stores in the Cortlandt Town Center – Walmart, Barnes and Noble, Regal Cinemas, Five Below – or just walking to my car and arrest me for carrying in a restricted location’ because there are no ‘conspicuous signs’ at the Cortlandt Town Center granting ‘permission’ for people to carry firearms and I am not going to ask permission to exercise a constitutional right.

17. I intend to carry a handgun during my everyday activities, including getting gas around town at the BP on Route 6 and 7-11 in Jefferson Valley, which also lack ‘conspicuous signs’ granting permission for me to carry a firearm to protect myself. I intend to continue getting gas at these and other locations.

18. My family and I are often at various parks in Yorktown including Sunnyside Park, London Woods, and Legacy Field, where I intend to carry my firearm. We also spend time at the Pound Ridge Reservation, FDR, Lake Taconic and Fahnestock Park several times per year. Bear and coyote sightings are not uncommon at these locations and I intend to carry my handgun concealed as a last resort in the event of a confrontation.

19. I face certain arrest and incarceration by any NYS trooper who observes me carrying a handgun concealed outside of my restriction, in a restricted area, and/or a sensitive location. If convicted, my pistol license will be revoked and, if convicted of a felony, I will forfeit my Second Amendment rights.

20. On August 31, 2022, Acting Superintendent Steven Nigrelli publicly stated that the NYSP has “zero tolerance” and if anyone violates the firearm laws, they will be arrested and that

NYS troopers are standing ready to do so.”<sup>1</sup>

21. I do not intend to carry a firearm in polling places, courthouses, or other locations that the United States Supreme Court has indicated are presumptively sensitive places.

22. Being punished as a criminal, arrested, and put in jail, having my license revoked, fines, losing my right to even possess a firearm – even though I have been issued and hold a valid New York State pistol license - is an absolute violation of my constitutional rights.

23. Plaintiffs’ motion for a preliminary and permanent injunction of the challenged statutes that bar carrying outside of my license restriction, carrying in sensitive places, and carrying in restricted locations should be granted.

The foregoing statement is made subject to and under the penalty of perjury.

Dated: October 16, 2022

DocuSigned by:

*Brianna Frey*

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Brianna Frey

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<sup>1</sup> <https://www.youtube.com/watch?v=gC1L2rrztQs>